

## Fiscal Highlights

### What Happened at the September 11th Meeting of the Social Services Appropriations Subcommittee? - Russell T. Frandsen

#### Morning Agenda

1. Call to Order
2. Approval of Minutes
3. Report on Salaries of Direct Care Workers Working with Individuals with Intellectual Disabilities - Department of Human Services (<http://le.utah.gov/interim/2015/pdf/00004066.pdf>, <http://le.utah.gov/interim/2015/pdf/00003955.pdf>, <http://le.utah.gov/interim/2015/pdf/00004028.pdf>, <http://le.utah.gov/interim/2015/pdf/00004030.pdf>, and <http://le.utah.gov/interim/2015/pdf/00004032.pdf>) - The Utah Division of Services for People with Disabilities, DSPD, received a \$5,395,200 state fund appropriation (\$18,177,900 total funds) during the Legislature's 2015 General Session. This appropriation was intended to raise wages for direct care service staff in the DSPD contracted private provider system based upon public input from families and providers that turnover rates in the system were excessive, often exceeding 100 percent annually. The DSPD contracted providers presented a three year plan to receive \$15 million in state funds (\$50 million in total funds). The first year appropriation resulted in a 10.5 percent rate increase to services identified as having a direct care component. Along with the increased appropriation, the Legislature passed intent language requesting DSPD and providers to report to the Office of the Legislative Fiscal Analyst (LFA) by September 1, 2015. Intent language also provided that no portion of these increases should be allocated to administrative functions or provider profits. The Human Services report stated, "Providers realize profits by maintaining a positive margin between what is expended by providing services and the funding they receive from DSPD, private fund raising, donations, and other business ventures." Committee members expressed concerns regarding whether increases were going as intended to direct care workers at the lower end of the hourly rate scale. The committee indicated it would have several members meet with the Department of Human Services to explore data verifying that lower paid direct care workers received the majority of the appropriation increase.
4. Report on Salaries of Direct Care Workers Working with Individuals with Intellectual Disabilities - Department of Health (<http://le.utah.gov/interim/2015/pdf/00004116.pdf> and <http://le.utah.gov/interim/2015/pdf/00003927.pdf>) - The Department of Health received an ongoing \$200,000 state fund appropriation (\$673,900 total funds) during the Legislature's 2015 General Session. This appropriation was intended to raise wages for direct care service staff in the Intermediate Care Facilities for Individuals with Intellectual Disabilities contracted private provider system. Along with the increased appropriation, the Legislature passed intent language requesting the Department of Health and providers to report to the Office of the Legislative Fiscal Analyst (LFA) by September 1, 2015. Intent language also provided that no portion of these increases should be allocated to administrative functions or provider profits. Health: "In Utah, there are currently 16 privately owned and operated ICF/ID facilities. All of the clients residing in these facilities are Medicaid clients meaning Medicaid is the only payer of services in this industry. To make a profit, ICF/ID providers must maintain a high bed occupancy rate, which maximizes revenues. Providers must ensure adequate services and attempt

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- to control costs, to the extent possible, in order to ensure that revenues exceed costs. If successful, the provider obtains a profit and the business is a viable on-going operation."
5. Report on Division of Services for People with Disabilities Status and Proposed Uses of FY 2015 Closing Nonlapsing Funds (<http://le.utah.gov/interim/2015/pdf/00003957.pdf>).
  6. Department of Human Services Responses to In-depth Budget Review and Audit Recommendations (<http://le.utah.gov/interim/2015/pdf/00003959.pdf>) - intent language required the Division of Services for People with Disabilities to report on the amount of FY 2015 nonlapsing funding and on the intended use of these funds. DSPD reported it had \$1.3 million in FY 2015 closing nonlapsing funds and it intended to use the total amount to pay for one-time respite services based upon state statute found at UCA 62A-105-102(7)(d)(iii) as well as 2015 General Session legislative intent language.
  7. Report on Local Authority Mental Health Medicaid Match (<http://le.utah.gov/interim/2015/pdf/00003967.pdf>, <http://le.utah.gov/interim/2015/pdf/00003963.pdf>, <http://le.utah.gov/interim/2015/pdf/00004048.pdf>, and <http://le.utah.gov/interim/2015/pdf/00004067.pdf>) - In its 2014 and 2015 General Sessions, the Legislature appropriated \$6.4 million one-time General Fund to assist local mental health authorities to pay for their mental health Medicaid match. The Utah Association of Counties (UAC) uses the match to meet the local mental health and substance abuse disorder needs that exist in their counties. UAC states, "In addition to the \$6.4 million provided by the Legislature, the counties are currently matching that \$6.4 million with 20 percent local matching funds (\$1,280,000) as required by UCA 17-43-301(4)(a)(x). In turn, the State and local funds are then being used to draw down additional federal Medicaid Funds." In addition to the appropriation, the Legislature also passed intent language in 2015 indicating that the \$6.4 million General Fund appropriation was for one year only until local authorities could find ways to provide their own matching funds in the future. The intent language also required the local mental health authorities to report plans to provide their own matching funds in the future to the Office of the Legislative Fiscal Analyst (S.B. 2, Item 82). Local mental health authorities have provided a report to the LFA. The local authority report describes the need for the state to "continue to partner with the local mental health authority and fund a portion of the federal match" on an ongoing basis and does not address plans on the part of local authorities to "provide their own matching funds in the future."
  8. Report on Office of Recovery Services Proposed Uses on Increased Fees from the 2014 General Session (<http://le.utah.gov/interim/2015/pdf/00003965.pdf>) - the Office of Recovery Services (ORS) reported, in compliance with intent language, regarding "a detailed listing of the intended uses of the additional fee revenue with associated amounts" (S.B. 2, Item 84). ORS estimated the fee increase to be \$1,422,200 and proposed using the fee increase to fund an additional 18 staff in order to "lower the cases per agent ratio" and "provide additional customer service agents."
  9. Report on Options for State Laboratory to Serve More Government Entities (<http://le.utah.gov/interim/2015/pdf/00004135.pdf>) - The Department of Health estimates that state agencies spent \$3.7 million on laboratory services outside of the Utah Public Health Laboratory in FY 2015. The Department identified five barriers to serving some of these needs from other agencies and has plans to address each barrier. Health: "The Utah Public Health Laboratory is available 24 hours/7 days a week to provide services to entities that have a public health mandate to protect citizens of Utah. This investigation has shown there is roughly \$3 million in laboratory services that are required by state entities. While the laboratory is poised to be able to accept these test requests, we are unable to determine at this time if the UPHL is able to provide comparable services for a fee that would be a savings to the state and tax-payers."
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With more time, the laboratory may explore the services used by the departments with the highest volumes to determine the costs for tests needed by those departments. Alternatively, the laboratory would be able to assess the needs of other departments with a right-of-first-refusal policy. This would allow the laboratory to have direct discussions with the agency about their needs, how much they have to spend on testing, and how/if the laboratory would be able to meet those needs within their budget."

10. Quarterly Status Reports on Replacement of Medicaid Management Information System (<http://le.utah.gov/interim/2015/pdf/00003921.pdf>) - Health: "Three CNSI deliverables were approved during June. The design sessions for Release 4 continued through the month. Systems integration testing for Release 3 continued, Provider outreach continued and project staff met with provider associations to discuss project status and Release 3."
11. Public Input on Topics on Today's Agenda.
12. Follow Up on State Policy and Practice Regarding Drug Testing of State Job Applicants (<http://le.utah.gov/interim/2015/pdf/00004069.pdf>) - the Department of Human Resource Management (DHRM) provided additional information in response to committee questions asked at the June 12, 2015 presentation on this topic. DHRM indicated between 2010 and 2014 state agencies administered 5,438 drug tests but found only 23 positive results from those tests.
13. Report on Highest Cost Individuals - Individuals Receiving Services in Excess of \$100,000 Total Fund Annually in Any Social Services Agency (<http://le.utah.gov/interim/2015/pdf/00004101.pdf> and <http://le.utah.gov/interim/2015/pdf/00003929.pdf>) - In its 2015 General Session, the Legislature passed intent language requiring the departments of Health, Human Services, and Workforce Services and the Utah State Office of Rehabilitation to provide a report regarding each agency's highest cost individuals and possible efficiencies through coordination, early intervention, and prevention. The report summarizes each agency's highest cost individuals and possible efficiencies through coordination, early intervention, and prevention with regard to individuals receiving services in excess of \$100,000 total funds annually. The four agencies identified 2,419 individuals for a total cost of \$396.2 million, or an average cost of \$163,800 per individual. The primary interaction between agencies regarding services for high cost individuals occurs between Health and Human Services. The State Office of Rehabilitation served only one individual with more than \$100,000 in services annually. Workforce Services had no single individual with more than \$100,000 in services annually. For the Department of Health, all of the 1,658 high cost individuals were within the Medicaid program. Health describes its 20 most expensive individuals as having various medical issues such as preterm birth, cancer, and renal failure. None of these individuals received significant services from multiple agencies. The majority of high cost individuals receiving services from multiple agencies (primarily Human Services with 760 individuals) were those enrolled in the Medicaid program and were: 1) individuals with disabilities, 2) individuals at the Utah State Developmental Center, and 3) youth in the Utah State Hospital. Report: "In FY 2015, the Utah Department of Health (UDOH) provided services to 1,658 individuals in excess of \$100,000. All were Medicaid members. The service totals included fee for service claims made directly to UDOH and encounter claims submitted by Medicaid accountable care organizations (ACOs) and prepaid mental health plans. One member had \$7,000 in Ryan White services in addition to the Medicaid services provided. Services to these individuals totaled \$292 million, which was approximately 15% of services provided to Medicaid members in FY 2015 ... The Department of Human Services (DHS) had 760 clients who had individual costs exceeding \$100,000 totaling \$103,328,900, which represents 14% of the DHS fiscal

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- year 2015 expenditures ... The Utah State Office of Rehabilitation recommends the listed agencies explore establishing data-share agreements, similar to the agreement in place between USOR and DWS. USOR believes this will enhance interagency coordination and collaboration in order to meet the needs of common consumers and high cost individuals and help avoid duplication of services."
14. Distribution of all General and Education Fund and Total Funds Among Programs by the Lowest Organizational Unit Possible (<http://le.utah.gov/interim/2015/pdf/00003980.pdf>, <http://le.utah.gov/interim/2015/pdf/00003978.pdf>, <http://le.utah.gov/interim/2015/pdf/00004026.pdf>, <http://le.utah.gov/interim/2015/pdf/00004050.pdf>, and <http://le.utah.gov/interim/2015/pdf/00004052.pdf>) - the committee received additional information regarding agency budgets at the lowest accounting unit. Preliminary information was provided to the committee on this topic during its June 12, 2015 interim meeting.
  15. Update on Funding of Requests for Appropriations Authorized During the 2015 General Session - the Department of Human Services provided the committee with an update on funding of Requests for Appropriation authorized during the 2015 General Session and the status of each funded item with regard to an open bid process versus a sole source contract and why each approach was applicable.
  16. Review of Statutorily Required Reports (<http://le.utah.gov/interim/2015/pdf/00004077.pdf>) - The Fiscal Analyst and state agencies recommend removing two reports required in statute that go to the Social Services Appropriations Subcommittee. Any changes to these reporting requirements must be done via legislation. The Speaker of the House and President of the Senate sent letters in July 2015 directing all appropriations subcommittees to review the relevancy of all statutorily-required reports. Senator Christensen indicated that he would open a bill file to remove these two reporting requirements.
  17. Detailed Explanation of How Federal Block Grant Spending is Approved (<http://le.utah.gov/interim/2015/pdf/00004112.pdf>) - A federal block grant is typically a large amount of funding provided to states that contains only general provisions from the federal government as to how grant funds are spent. Categorical grants often have much more restrictive provisions about the uses of grant funds. Because of the general requirements regarding block grants, the Legislature may direct or redirect the use of these grants as long as doing so would meet the general purposes of the block grant and would not create federal matching issues. This issue brief discusses federal block grants used in funding programs within the Social Services Appropriations Subcommittee which include the following agencies; 1) the Department of Health, 2) the Department of Human Services, 3) the Department of Workforce Services, and 4) the Utah State Office of Rehabilitation. The total annual receipt of block grant funds shown in this brief for 2016 is above \$250 million.
  18. Items From the Afternoon Agenda.
  19. Tour of Services at Palmer Court - this tour and the one below were featured in a front page news article in the Deseret News, see <http://www.deseretnews.com/article/865636617/Lawmakers-get-glimpse-of-lives-of-homeless-people-services-that-help-them.htmlpg=all>.
  20. Saint Vincent de Paul Dining Hall & Homeless Tour.

### **Afternoon Agenda**

1. Unfinished Items from the Morning Agenda.

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2. USOR Vocational Rehabilitation issues (<http://le.utah.gov/interim/2015/pdf/00004013.pdf>, <http://le.utah.gov/interim/2015/pdf/00003969.pdf>, <http://le.utah.gov/interim/2015/pdf/00003976.pdf>, <http://le.utah.gov/interim/2015/pdf/00004104.pdf>, <http://le.utah.gov/interim/2015/pdf/00003994.pdf>, <http://le.utah.gov/interim/2015/pdf/00003996.pdf>, <http://le.utah.gov/interim/2015/pdf/00004075.pdf>, and <http://le.utah.gov/interim/2015/pdf/00004107.pdf>) - A recently completed Legislative audit, A Performance Audit of USOR's Budget and Governance, summarized the Utah State Office of Rehabilitation (USOR) as follows: "USOR is housed within the Utah State Office of Education (USOE). USOR offers multiple programs to help disabled Utahns achieve employment, greater independence, and a higher quality of life. Primarily, USOR provides a range of vocational rehabilitation (VR) services to disabled Utahns with the goal of obtaining employment. VR services include training, education, transportation, assistive technology, and others. In federal fiscal year 2014, USOR served approximately 20,000 clients." The Office of the Legislative Auditor General (OLAG) further explains, "Since the 2008 recession, USOR has had problems managing its budget. . . . During the 2014 General Legislative Session, USOR appeared before the SSAS (Social Services Appropriations Subcommittee) to report a pending budget deficit of \$7.8 million." The Legislature addressed the \$7.8 million shortfall with an ongoing appropriation. In the 2015 General Session USOR also requested a \$6.3 million supplemental increase. The auditors further explain that "these difficulties eventually led to the request of this audit by the Social Services Appropriations Subcommittee." The main themes of the audit results include: 1) "USOR mismanaged its budget" by "running a \$4.9 million deficit in 2014, eliminating approximately \$17 million of federal spending reserves traditionally available in the second year of USOR's vocational rehabilitation (VR) grant, needing a \$6.3 million state supplemental appropriation in 2015, and anticipating a potential penalty from the federal government of \$5 to 6 million; 2) "weak oversight and communication prolonged and worsened financial problems" because "nonfunctioning oversight and poor communication aggravated financial problems," "USBE failed to provide an appropriate level of governance of USOR," and "USOE failed to provide oversight of USOR;" 3) "USOR's mission would be better served elsewhere in state government" by concluding that "USOE is not the best location for USOR" and that "DWS appears to be the most likely candidate for USOR placement" while acknowledging that "stakeholder concerns exist" and also that "other options also exist for USOR placement;" and 4) "use of the Visually Impaired fund for Vocational Rehabilitation was imprudent" and acknowledging that "guidance on the fund use is limited" and that "options exist for possible reimbursement of the funds." In addition to the request for an audit, the Social Services Appropriations Subcommittee also approved intent language requiring USOR, USOE, and the Utah State Board of Education to provide a report on actual and projected fiscal status of vocational rehabilitation over several years, including identification of one-time funding sources used to pay for ongoing services.
  3. Tour of Utah Independent Living Center (<http://le.utah.gov/interim/2015/pdf/00003951.pdf> and <http://le.utah.gov/interim/2015/pdf/00004066.pdf>) - The Independent Living Center in Salt Lake City received \$514,300 Education Fund and \$1,092,600 total funds in FY 2014 from the State. The State spent on all Independent Living Centers \$2,937,100 Education Fund and \$4,842,600 total funds during that same period. The funding from the State represents 61 percent of all funds spent by the State's Independent Living Centers.



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4. Report on Drug Court Program and Best Practices for Substance Abuse Treatment for Offenders (<http://le.utah.gov/interim/2015/pdf/00003953.pdf>) - The Office of the Utah State Auditor released *A Performance Audit of Utah's Adult Felony Drug Courts* on January 21, 2015. This audit was presented to the Social Services Appropriations Subcommittee. The committee and Legislature subsequently adopted intent language (S.B. 2, Item 82) requiring the Department of Workforce Services (DWS) and the Administrative Offices of the Courts (AOC) to provide a report describing: 1) a summary of efforts to improve coordination between the Drug Court program and DWS' Workforce Development Division in order to improve Drug Court success, 2) data indicating the success of the efforts including the implementation and reporting on measures of post program recidivism, and 3) any identified savings or additional funding of drug court recipients as a result of improved coordination efforts.
  5. Justice Reinvestment Initiative (<http://le.utah.gov/interim/2015/pdf/00004109.pdf> and <http://le.utah.gov/interim/2015/pdf/00003998.pdf>) - During 2014 the Commission on Criminal and Juvenile Justice (CCJJ) partnered with the Pew Charitable Trusts to review Utah's data regarding sentencing and corrections. Among other things, this review found there had been an 18 percent increase in Utah's prison population in the past decade while Utah prison admissions declined eight out of ten years in the decade prior to that. CCJJ estimated that without action, the state would need to house an additional 2,700 inmates by 2034. In its Justice Reinvestment Report and Report Summary CCJJ stated, "Almost half (46% of Utah's inmates who are released from state prisons return within three years". In addition, this review found: 1) 62 percent of offenders sent directly to prison from court were admitted for nonviolent offenses, 2) as of January 2014, offenders on probation and parole supervision were failing at higher rates than they did 10 years previous with 46 percent of Utah's prison population now made up of those who were there for a probation or parole violation, and 3) prisoners were spending 18 percent longer in prison than they did 10 years previous even though research now shows that there is "diminishing public safety returns for longer prison sentences." There are currently 6,687 state inmates along with 17,755 probationers and parolees in the community. During the 2015 General Session the Legislature passed H.B. 348, *Criminal Justice Programs and Amendments*, to: 1) focus prison beds on serious and violent offenders, 2) strengthen probation and parole supervision, 3) improve and expand reentry and treatment services by increasing the availability of mental health and substance abuse treatment services across the state, 4) support local corrections systems by focusing jail resources on high-level offenders, and 5) ensure oversight and accountability through training and data collection and reporting of key performance measures. The Legislature also provided \$11,980,000 ongoing and \$2,000,000 one-time for implementation of H.B. 348. Of the \$13,980,000, funding was distributed as follows: \$6,036,000 to the Department of Corrections, \$4,975,000 to the Department of Human Services, \$2,848,200 to CCJJ, and \$120,800 to the Board of Pardons. Of the \$13,980,000 appropriated for JRI, \$7,098,700 will directly benefit counties through risk and needs screening and treatment programs.
  6. Other Business.